

REMARKS

In view of the below remarks, the applicant respectfully asserts that the rejections to the pending claims are now moot, and the pending claims are in condition for allowance.

Supplemental Declaration under 37 C.F.R. § 1.131

In the Office Action, each of the pending patent Claims 1-5, 7-11, 13, and 16-21 were rejected under 35 U.S.C. §103(a) as obvious in view of the combination of two patents, U.S. Patent No. 6,823,359 to et al. ("*Heidingsfeld*"), and U.S. Patent No. 6,157,943, to Meyer ("*Meyer*"). Attached to this response is a second declaration by the inventor, Steven Charles Appling, made under 37 C.F.R. § 1.131 where Mr. Appling establishes not only invention of the subject matter of the pending claims prior to the earliest filing date of the *Heidingsfeld* reference, but also reasonable diligence in preparing the 09/747,366 patent application ("the '366 application") for filing with the USPTO from a date just prior to the effective date of the *Heidingsfeld* reference until the filing of the '366 application (i.e., constructive reduction to practice).

The attached declaration along with its referenced Exhibits A and B fully comply with the applicable requirements of 37 C.F.R. § 1.131. Such documents establish a conception of the invention described in the pending claims prior to the effective date of the *Heidingsfeld* reference (November 21, 2000), as well as establish that the applicant diligently pursued the filing of a patent application prior to November 21, 2000 (i.e., the effective of the *Heidingsfeld* reference) and continued to be diligent up to the filing of the patent application on December 22, 2000. To preserve the confidentiality of communications with counsel and prevent waiver of the attorney-client privilege, portions of Exhibit B have been redacted to provide no more information than is necessary to establish diligence from a date prior to the filing of *Heidingsfeld* on November 21, 2000 up to the filing of the 09/747,366 application on December 22, 2000.

As a result the *Heidingsfeld* reference is not considered sufficient prior art to be used in combination with the *Meyer* reference to render the current claims unpatentable under 35 U.S.C. §103(a). For at least these reasons, the combination of *Heidingsfeld* and *Meyer* fails to render the pending claims unpatentable. Thus, the arguments presented in the Office Action are now

moot. Therefore, the Applicant asserts that Claims 1-5, 7-11, 13, and 16-21 should be allowed.

Conclusion

The foregoing is submitted as a full and complete response to the Office Action. The applicant requests that all pending claims be allowed because, as shown above, they are patentable over the art of record. It is therefore respectfully requested that a Notice of Allowance be issued. If there are any issues that can be resolved by a telephone conference or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney at (404) 853-8214.

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



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Certificate of Mailing Under 37 C.F.R. § 1.8(a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on March 21, 2006 with sufficient postage as first-class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Rebecca L. Smith